

(2)
No. 90-458

Supreme Court, U.S.
FILED
OCT 5 1990
JOSEPH F. SPANIOL, JR.
CLERK

**In the
Supreme Court of the United States**

OCTOBER TERM, 1990

**FRANK J. CAMOSCIO,
PETITIONER,**

v.

**THE PATRIOT LEDGER, ET AL.,
RESPONDENTS.**

ON PETITION FOR A WRIT OF CERTIORARI TO THE
SUPREME JUDICIAL COURT OF MASSACHUSETTS.

**BRIEF FOR RESPONDENTS
IN OPPOSITION TO PETITION.**

**JAMES C. HEIGHAM,
CHOATE, HALL & STEWART,
Exchange Place,
53 State Street,
Boston, Massachusetts 02109.
(617) 227-5020**

Question Presented.

Respondent is not aware that this case presents any substantial legal issue, federal or otherwise.



Table of Contents.

Procedures and Opinions Below	1
Argument	2
I. Petitioner raises no substantial federal question	2
II. Petitioner raises no generally significant question worthy of further review	3
III. Petitioner cites no issues on which he claims a conflict of decisions	3
IV. This petition is just one more example of petitioner's determination to interminably litigate the revocation of his license as a podiatrist	4
Conclusion	4

Table of Authorities Cited.

CASES.

Camoscio v. Board of Registration in Podiatry, 385 Mass. 1002, cert. denied, 457 U.S. 1139 (1982)	3, 4
Camoscio v. Board of Registration in Podiatry, 394 Mass. 1006, 476 N.E.2d 569 (1985)	3, 4
Camoscio v. Smith, 26 Mass. App. Ct. 922, 525 N.E.2d 421 (1988)	3, 4
Layne & Bowler Corp. v. Western Well Works, Inc., 261 U.S. 387 (1923)	3
Lewis v. Vallis, 356 Mass. 662, 255 N.E.2d 337 (1970)	2
Rice v. Sioux City Memorial Park Cemetery, Inc., 349 U.S. 70 (1955)	3
Sibley v. Holyoke Transcript-Telegram Publishing Co., 391 Mass. 468, 461 N.E.2d 823 (1984)	2



No. 90-458

**In the
Supreme Court of the United States**

OCTOBER TERM, 1990

**FRANK J. CAMOSCIO,
PETITIONER,**

v.

**THE PATRIOT LEDGER, ET AL.,
RESPONDENTS.**

**ON PETITION FOR A WRIT OF CERTIORARI TO THE
SUPREME JUDICIAL COURT OF MASSACHUSETTS.**

**BRIEF FOR RESPONDENTS
IN OPPOSITION TO PETITION.**

Procedures and Opinions Below.

Since this petition is mistitled as a "Petition For Writ of Certiorari To The United States Court of Appeals For The First Circuit," it seems desirable to briefly summarize the proceedings below.

Those proceedings were in fact entirely in the Massachusetts State Courts.

They began with petitioner, a podiatrist whose license had been revoked, filed an action for libel in the Superior Court for Norfolk County, Massachusetts, against a newspaper published in Quincy, Massachusetts, and one of its reporters. Defendants moved to dismiss. That motion was granted and a written opinion filed by the Superior Court (A. 7-19).

Petitioner appealed and the Massachusetts Appeals Court affirmed in an unpublished opinion (A. 1-5). Petitioner then petitioned the Massachusetts Supreme Judicial Court for further appellate review. That petition was denied (A. 6).

Argument.

I. PETITIONER RAISES NO SUBSTANTIAL FEDERAL QUESTION.

This case was decided below by the Massachusetts Courts strictly on state law grounds.

More specifically, it was a common law libel action in which petitioner complained of three paragraphs in an article published by the defendant newspaper.

The Superior Court judge held that the first paragraph complained of was clearly true as shown by prior decisions of the Massachusetts appellate courts in other litigation brought by petitioner (A. 12-13), and that the other two paragraphs complained of fell within the Massachusetts "reporters privilege" for fair and accurate reports of judicial and quasi judicial proceedings (A. 17-19). See in particular *Sibley v. Holyoke Transcript-Telegram Publishing Co.*, 391 Mass. 468, 470, 461 N.E.2d 823 (1984); *Lewis v. Vallis*, 356 Mass. 662, 666, 255 N.E.2d 337 (1970).

The Appeals Court affirmed on the opinion below and the added ground that petitioner was libel-proof with respect to his activities as a podiatrist, citing three prior published Massachusetts opinions relating to the proceedings in which his license was revoked (A. 4-5). See *Camoscio v. Board of Registration In Podiatry*, 385 Mass. 1002, cert. denied, 457 U.S. 1139 (1982); *Camoscio v. Board of Registration in Podiatry*, 394 Mass. 1006, 476 N.E.2d 569 (1985); *Camoscio v. Smith*, 26 Mass. App. Ct. 922, 525 N.E.2d 421 (1988).

The record thus raises no substantial Federal question.

II. PETITIONER RAISES NO GENERALLY SIGNIFICANT QUESTION WORTHY OF FURTHER REVIEW.

As stated above, this was a common law libel action brought in the Massachusetts Courts. It further involves facts unique to the petitioner, a podiatrist whose license had been revoked.

Although the issues involved are no doubt emotionally important to the petitioner personally, the test is the importance of issues "to the public as distinguished from" importance to the parties involved. *Layne & Bowler Corp. v. Western Well Works, Inc.*, 261 U.S. 387, 393 (1923). *Rice v. Sioux City Memorial Park Cemetery, Inc.*, 349 U.S. 70, 79 (1955).

III. PETITIONER CITES NO ISSUES ON WHICH HE CLAIMS A CONFLICT OF DECISIONS.

The petitioner does not even suggest that the opinions below conflict with decisions in the Federal Courts or in other states.

IV. THIS PETITION IS JUST ONE MORE EXAMPLE OF PETITIONER'S DETERMINATION TO INTERMINABLY LITIGATE THE REVOCATION OF HIS LICENSE AS A PODIATRIST.

Petitioner's license as a podiatrist was revoked by the Massachusetts Board of Registration in Podiatry effective April 1, 1984 (A. 12). He has constantly attempted to relitigate this issue and, as noted by the Appeals Court, three prior published opinions have resulted (A. 5). See *Camoscio v. Board of Registration in Podiatry*, 385 Mass. 1002, cert. denied, 457 U.S. 1139 (1982); *Camoscio v. Board of Registration in Podiatry*, 394 Mass. 1006, 476 N.E.2d 569 (1984); *Camoscio v. Smith*, 26 Mass. App. Ct. 922, 525 N.E.2d 421 (1988).

Nor has he given up. He has filed the present petition in the absence of any conceivable Federal issue and, as stated in that petition (pp. 6-7), he "is presently before the State Supreme Judicial Court in a Petition of Equity to reinstate his podiatric license."

Conclusion.

To allow this petition would only encourage more such interminable litigation.

Respectfully submitted,

JAMES C. HEIGHAM,
CHOATE, HALL & STEWART,
Exchange Place,
53 State Street,
Boston, Massachusetts 02109.
(617) 227-5020